

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAVID MONTANEZ, *Individually and on  
Behalf of all Other Persons Similarly Situated,*

Plaintiff,

-v-

VINCENT A. WASIK, ARLENE JORDAN,  
and JOHN DOES #1-10,

Defendants.

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No. 12 Civ. 318 (RJS)  
ORDER

RICHARD J. SULLIVAN, District Judge:

On May 18, 2012, the Court received a stipulation of dismissal from the parties. Because Plaintiff's Complaint makes claims under the Fair Labor Standards Act, ("FLSA"), 29 U.S.C. § 201 *et seq*, judicial approval is required before settlement. *See Medley v. Am. Cancer Soc'y*, No. 10 Civ. 3214 (BSJ), 2010 WL 3000028, at \*1 (S.D.N.Y. July 23, 2010) ("With only two exceptions, employees cannot waive FLSA claims for unpaid wages or overtime, for less than full statutory damages. The two exceptions are for: (1) settlements supervised by the Secretary of Labor, and (2) judicially-approved stipulated settlements." (quoting *Manning v. New York Univ.*, No. 98 Civ. 3300 (NRB), 2001 WL 963982, at \*12 (S.D.N.Y. Aug. 22, 2001))). The requirement of court-supervised approval arises in part from the "fear that employers would coerce employees into settlement and waiver." *Manning*, 2001 WL 963982, at \*11. "In deciding whether to approve a stipulated settlement, the Court must scrutinize the settlement for fairness." *Boucaud v. City of New York*, No. 07 Civ. 11098 (RJS), 2010 WL 4813784, at \*1 (S.D.N.Y. Nov. 16, 2010) (internal quotations and citations omitted).

Accordingly, IT IS HEREBY ORDERED THAT, by June 1, 2012, the parties shall submit a joint letter to the Court, setting forth their views on why the settlement is fair. The parties are further directed to indicate in the settlement agreement what portion of the total settlement amount shall be paid to Plaintiff's counsel as attorney's fees, and attach a copy of the agreement to their joint letter.

IT IS FURTHER ORDERED THAT the parties, including Plaintiff personally, shall appear for a fairness hearing on Friday, June 22, 2012 at 12:30 p.m.

SO ORDERED.

Dated: May 18, 2012  
New York, New York

  
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RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE